

In the
Indiana Supreme Court



IN THE MATTER OF THE
APPROVAL OF LOCAL RULES
FOR CLARK COUNTY

Case No. 10S00-1312-MS-799

ORDER APPROVING AMENDED LOCAL RULE

The Judges of the Clark Circuit Court request the approval of amended local rules for caseload allocation in accordance with Ind. Administrative Rule 1(E) and special judge selection in criminal cases in accordance with Ind. Criminal Rule 13. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Clark Circuit Court, this Court finds that the proposed rule amendments, LR10-AR00-5 and LR10-AR00-16 comply with the requirements of Ind. Administrative Rule 1(E) and Ind. Criminal Rule 13, respectively, and, accordingly, should be approved and posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

IT IS, THEREFORE, ORDERED by this Court that amended Local Rules LR10-AR00-5 and LR10-AR00-16 for Clark Circuit Court, set forth as an attachment to this Order, are approved effective January 1, 2014. The Clerk of this Court is directed to forward a copy of this Order to the Hon. Vicki Carmichael, Clark Superior Court 1, 501 East Court Avenue, Jeffersonville, IN 47130-4029; to the Hon. Jerry F. Jacobi, Clark Superior Court 2, 501 East Court Avenue, Jeffersonville, IN 47130-4029; to the Hon. Daniel Moore, Clark Circuit Court, 501 East Court Avenue, Jeffersonville, IN 47130-4029; to the Hon. Joseph P. Weber, Clark Superior Court 3, 501 East Court Avenue, Jeffersonville, IN 47130-4029; to the Clerk of the Clark Circuit Court; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Clark Circuit Court is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for examination

by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, on December 6, 2013.

A handwritten signature in blue ink, appearing to read "Brent E. Dickson", written over a horizontal line.

Brent E. Dickson
Chief Justice of Indiana

RULE 5
[LR10-AR00-5]
ALLOCATION OF CASES

A. Applicability. This rule shall apply to all felony and misdemeanor cases filed in the Circuit Courts in Clark County, Indiana and in the Jeffersonville City Court or the Clarksville Town Court.

B. Major Felony Cases. Except as otherwise specifically provided for, all cases which include Murder, Class A Felony, Class B Felony, or Class C Felony offenses as the most serious charged offense, shall be assigned as follows:

1. Cases alleging the most serious offense was committed during the months of February, April, June, August, October or December shall be assigned to the Judge of Clark Circuit Court No. 1.

2. Cases alleging the most serious offense was committed during the months of January, March, May, July, September, or November shall be assigned to the Judge of Clark Circuit Court No. 4.

Cases with co-defendants shall be filed in the same court.

C. Misdemeanor and Class D Felony Cases. Except as otherwise specifically provided, all cases having a Class D Felony as the most serious charge shall be assigned to the Judge of Circuit Court No. 3. Misdemeanor offenses occurring in Jeffersonville shall be assigned to the Judge of Jeffersonville City Court; misdemeanor offenses occurring in Clarksville shall be assigned to the Judge of Clarksville Town Court; all other misdemeanor offenses shall be assigned to the Judge of Circuit Court No. 3.

D. Traffic-Related Cases. All cases which include a felony charge relating to traffic or motor vehicles, under Title 9 of the Indiana Code or Indiana Code 35-42-1 (Homicide) shall be assigned to the Judge of Circuit Court No. 3.

E. Controlled Substances Cases. All Class A, Class B, Class C and Class D felony cases which include a charge related to Controlled Substances under Indiana Code 35-48 or Legend Drugs under Indiana Code 16-42 shall be assigned to the Judge of Circuit Court No. 2. Class D or multiple Class D Felony cases which include driving offenses shall be assigned to the Judge of Circuit Court No. 3.

F. Juvenile Criminal Cases. All cases which include a misdemeanor or felony charge against a defendant alleged to be under the age of eighteen (18) at the time of the commission of the offense, shall be assigned to the Judge of Circuit Court No. 4.

All cases which include a charge of Neglect of a Dependent or Contributing to the Delinquency under Indiana Code 35-46-1-8 or Violation of Compulsory School Attendance under Indiana Code 20-8.1-3 shall be assigned to the Judge of Circuit Court No. 4.

G. Attempt, Conspiracy, and Aiding Cases. For purposes of this Rule, when a case includes a charge of Attempt under Indiana Code 35-41-5-1, Conspiracy under Indiana Code 35-41-5-1, or Aiding under Indiana Code 35-41-2-4, proper assignment of the case shall be determined by reference to the substantive offense underlying each charge.

H. Re-filing of Dismissed Cases. In the event a criminal case is dismissed, and thereafter, the same or similar case is filed against the same defendant(s) base upon the same transaction, the case shall be assigned to the judge who entered the Order of Dismissal on the earlier case.

I. Juvenile Paternity Cases. One-half of the Juvenile Paternity cases shall be assigned to the Judge of Circuit Court No. 1. One-half of the Juvenile Paternity cases shall be assigned on an equal basis to the Judges of Circuit Court No. 2 and No. 4.

J. Other Juvenile Cases. All Juvenile CHINS cases, Juvenile Status cases, Juvenile Termination of Parental Rights cases, and Juvenile Miscellaneous cases shall be assigned to the Judge of Circuit Court No. 4.

K. Mortgage Foreclosure and Civil Collection Cases. Mortgage Foreclosure cases shall be assigned on an equal basis to the Judges of Circuit Court No. 1 and Circuit Court No. 2.

L. Civil Tort and Civil Plenary Cases. Civil Tort and Civil Plenary cases shall be assigned on an equal basis to the Judges of Circuit Court No. 1, No. 2 and No. 4. Any case involving a Clark County tax sale or conservancy district issue shall be assigned to the Judge of Circuit Court No. 1.

M. Small Claims Cases. All Small Claims cases shall be assigned to the Judge of Circuit Court No. 3.

N. Mental Health Cases. All Mental Health cases shall be assigned to the Judge of Circuit Court No. 1.

O. Domestic Relations Cases. Domestic Relations cases shall be assigned on an equal basis to the Judges of Circuit Court No. 1, No. 2 and No. 4.

P. Reciprocal Support Cases. All Reciprocal Support cases shall be assigned to the Judge of Circuit Court No. 1.

Q. Protective Order Cases. All Protective Order cases shall be assigned to the Judge of Circuit Court No. 2 unless the Protective Order request is associated with a Dissolution of Marriage case filed in another court. In such instance, the Protective Order request shall be assigned to that court.

R. Guardianship and Estate Cases. One-half of the Guardianship cases shall be assigned to the Judge of Circuit Court No. 1 and one-half of the Guardianship cases shall be assigned on an equal basis to the Judges of Clark Circuit Court No. 2 and No. 4. Estate cases (supervised and unsupervised) shall be assigned to the Judge of Circuit Court No. 1.

S. Trust Cases. All Trust cases shall be assigned to the Judge of Circuit Court No. 1.

T. Adoption Cases. All Adoption Cases shall be assigned on an equal basis to the Judges of the Circuit Courts.

U. Family Court Exceptions. This subsection applies to situations of pending CHINS or juvenile delinquency matters in Circuit Court No. 4. Notwithstanding any other provision of this Rule, when a family law case (e.g., dissolution, paternity, guardianship, adoption, reciprocal support) or a modification of an existing family law case involving the same family in the pending CHINS or juvenile delinquency matter is presented to the Clerk for filing, that matter shall be filed in or transferred to Circuit Court No. 4. When a CHINS or juvenile delinquency case is filed in Circuit Court No. 4 after a family law case has been filed in any other court, the judge with jurisdiction over the family law case shall transfer that case to Circuit Court No. 4. The Judge of Circuit Court No. 4 may request a transfer of certain criminal cases where those cases have a direct impact on allocation of parenting time or placement of the child in a pending CHINS or delinquency matter.

V. Exceptions for Defendant with Pending Cases. When a new criminal case filing involves a defendant who has a pending criminal case, other than a Petition to Revoke Probation, the provisions of this subsection shall apply. If a defendant has a pending case in Circuit Court No. 1 or Circuit Court No. 4 and is charged with a new offense that is not (1) a traffic or driving related offense or (2) a felony drug or controlled substance offense, the new case shall be filed where the current case is pending. If a defendant has a pending case in Circuit Court No. 2 or Circuit Court No. 3 that is not (1) a traffic or driving related offense or (2) a felony drug or controlled substance offense, and a new case is filed against that defendant in Circuit Court No. 1 or Circuit Court No. 4, the pending case in the other court shall be transferred to Circuit Court No. 1 or Circuit Court No. 4 upon the filing of the new charge.

W. Transfer of Cases. When a Judge of the Circuit Court deems it appropriate, and consistent with the authority granted to these Courts by statute, any Judge of such Courts may enter an Order, after initial filing, transferring any civil, family or criminal case to the docket of any such other Court in Clark County.

X. Error in Case Assignments. Any error in the assignment of a criminal case shall not constitute grounds for an appeal or post-conviction relief unless actual bias or prejudice of the judge hearing the case is demonstrated.

Y. Clerk Management of Case Assignment Process. The Clerk of the Circuit Courts shall, upon the approval of the Judges of each such Court, implement and manage an appropriate, efficient system for distribution of cases described in the foregoing subsections as being the object of assignment "on an equal basis."

RULE 16
[LR10-AR00-16]
APPOINTMENT OF SPECIAL JUDGES
IN CRIMINAL CASES

A. Pursuant to Ind. Crim. Rule 2.2 and Ind. Crim. Rule 13(C), this rule shall apply to the reassignment of the case and the selection of special judges in felony and misdemeanor cases where a change of judge is granted pursuant to Ind. Crim. Rule 12(B) or an order of disqualification or recusal is entered in the case.

The reassignment procedure set forth in this rule shall also apply where a change of judge is granted pursuant to Ind. Post-Conviction Remedy Rule 1(4)(b) and in proceedings to enforce a statute defining an infraction and ordinance violation case where a change of judge is granted for cause pursuant to Crim. Rule 12(C).

B. A special judge shall be selected, by the Assignment Judge, from the list of judges below on a rotating basis, which includes all judges from administrative district 23, other contiguous counties and senior judges:

- (1) Clark Circuit #1
- (2) Clark Circuit #2
- (3) Clark Circuit #3
- (4) Clark Circuit #4
- (5) Floyd Circuit
- (6) Floyd Superior #1
- (7) Floyd Superior #2
- (8) Floyd Superior #3
- (9) Scott Circuit
- (10) Scott Superior
- (11) Jefferson Circuit Court
- (12) Jefferson Superior Court
- (13) Washington Circuit Court
- (14) Washington Superior Court
- (15) Senior Judges who agree to serve as Special Judge

C. Appointment Order. Upon selecting a special judge, the assignment judge shall prepare an Order of Appointment and forward said Order to the judge before whom the case is pending and enter an Order of Appointment and forward a copy of the Order to the special judge and the attorneys of record.

D. Acceptance of Jurisdiction. The Order of Appointment, when entered by the judge before whom the case is pending, shall constitute acceptance of jurisdiction by the appointed special judge unless the judge is otherwise disqualified, and no special appearance, oath or additional evidence of acceptance shall be required.

E. Form of Order. The Order of Appointment shall be in the following form:

IN THE CLARK CIRCUIT COURT NO. _

STATE OF INDIANA

(Caption)

ORDER OF APPOINTMENT

Under the provisions of Rule 13(C) of the Indiana Rules of Criminal Procedure, the Honorable _____ of the _____ Court of _____ County is hereby appointed to serve as special judge in the above-captioned case.

SO ORDERED AND ASSIGNED THIS _____ DAY OF _____, _____ BY
THE ASSIGNMENT JUDGE FOR THE 23RD JUDICIAL DISTRICT.

Assignment Judge

F. Implementation of Rule. In the event a selected Judge does not accept an appointment to serve as a special Judge, the judge before whom the case is pending shall notify the assignment judge of the need for an appointment of a special judge under this local rule.

G. Certification to Supreme Court. If, under the provisions of this rule, no judge is eligible to serve as a special judge in a case, the assignment judge shall notify the judge before whom the case is pending who shall then certify such fact to the Indiana Supreme Court for the appointment of a special judge. If the judge before whom the case is pending is of the opinion that the particular circumstances of a case warrants selection of a special judge by the Indiana Supreme Court, said judge shall certify such facts to the Indiana Supreme Court for the appointment of a special Judge. Under such circumstances this Rule shall not be implemented unless the Indiana Supreme Court declines to appoint a special Judge.